

Supreme Court of Kentucky


ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND
PROCEDURE FOR THE 54TH JUDICIAL CIRCUIT, FAMILY
COURT DIVISION, BOONE AND GALLATIN COUNTIES**

Upon recommendation of the Judges of the 54th Judicial Circuit, and
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 54th Judicial Circuit,
Family Court Division, Boone and Gallatin counties, are hereby approved. This
order shall be effective as of the date of this Order, and shall remain in effect
until further orders of this court.

Entered this the 23rd day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT
FOR BOONE/GALLATIN FAMILY COURT
54th JUDICIAL CIRCUIT**

RULE 1: INTRODUCTION / ADMINISTRATIVE PROCEDURES

101 Introduction.

- A. These are the Rules of Practice of the Family Court for Boone and Gallatin Counties (54th Judicial Circuit) and shall be cited as “B/GFCR” for Boone/Gallatin Family Court Rules. These Rules supplement the Kentucky Rules of Civil Procedure the Kentucky Rules of Criminal Procedure, the Family Court Rules of Procedure and Practice (FCRPP) and the Rules of the Supreme Court.

102 Jurisdiction.

- A. As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall have jurisdiction in those matters authorized by KRS 23A.100.
- B. Any juvenile who is alleged to have committed a crime against family members or others may come before the Family Court upon the amendment of the charge to a status offense and referral of the District Judge.
- C. If there is a criminal violation of an emergency protective order or domestic violence order, those offenses shall be heard by the District Court.
- D. If there is a civil violation of an emergency protective order or domestic violence order, those offenses shall be heard by the Family Court.

103 Appeal from Family Court Matters.

All appeals from Family court matters shall proceed by the Rules of Civil Procedure to the Court of Appeals.

104 Holidays.

Family Court shall adhere to the list of Court Holidays previously set out by the Administrative Office of the Courts, unless otherwise addressed by the Chief Circuit Court Judge.

RULE 2: COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 The following is a schedule for cases before the Boone/Gallatin Family Court:

Monday	8:30 a.m. - 9:30 a.m.	Domestic Violence hearings and Adoptions
	9:30 a.m. - 12:00 p.m.	Domestic Relations motions / hearings
	1:00 p.m. - 3:45 p.m.	Domestic Relations motions / hearings
Tuesday	8:30 a.m.	All Juvenile Status Offense Cases
	9:30 a.m.	Arraignments for Dependency, Neglect and Abuse Cases
	10:30 a.m.	Pretrial and Dispositional Hearings for Dependency, Neglect and Abuse Cases
	11:30 a.m.	Reviews for Dependency, Neglect and Abuse Cases
	1:00 p.m.	Trial, Motions for Permanent Custody, Motions for Visitation, Motions to Return Child(ren) to Parent, Motions to Change Permanency Plan and Motions to Waive Reasonable Efforts for Dependency, Neglect and Abuse Cases
Wednesday	8:30 a.m. - 9:30 a.m.	Domestic Violence hearings, Adoptions and Child Support Motions (brought by Child Support Office)
	9:30 a.m. - 10:00 a.m.	Domestic Relations motions/hearings
	10:00 a.m. - 11:00 a.m.	Paternity and Child Support Office generated child support review
	11:00 a.m. - 12:00 p.m.	Domestic Relations motions/hearings
	1:00 p.m. - 3:45 p.m.	Domestic Relations motions/hearings.
Thursday	On the <u>first and third Thursday</u> of the month, Family Court cases for <u>Gallatin County</u> will be heard in Warsaw. The schedule for motion hour in Gallatin County shall be as follows:	
	8:30 a.m. - 9:00 a.m.	Domestic Violence hearings and Adoptions
	9:00 a.m. - 9:30 a.m.	All Juvenile Status Offense Cases
	9:30 a.m. - 10:30 a.m.	All Juvenile Dependency, Neglect and Abuse Cases
	10:30 a.m.	Domestic Relations motions/hearings
	9:00 a.m. - 12:00 p.m.	Paternity and Child Support Review (brought by Child Support Office)

On the second, fourth and fifth Thursday of the month Family Court matters will be heard in Boone County as follows:

8:30 a.m. - 12:00 p.m.	Domestic Relations motions/hearings
1:00 p.m. - 3:45 p.m.	Domestic Relations motions/hearings

Friday	8:30 a.m. - 9:30 a.m.	Domestic Violence hearings and Adoptions
	9:30 a.m. - 12:00 p.m.	Domestic Relations motions/hearings
	1:00 p.m. - 2:45 p.m.	Domestic Relations motion/hearings

202 Obtaining Motion Dates and Deadline for Serving and Filing Motions.

- A. All contested domestic relations motions and hearings designated to be heard in the Family Court in Boone County shall be set for hearing by telephoning the office of the Family Court Judge. The party setting the motion shall give the opposing party at least seven days notice of the hearing date, unless a shorter time period is ordered by the Court.
- B. All motions for emergency hearing and ex-parte motions must be submitted for the Judge's review. If the Judge grants a motion for emergency hearing, an expedited hearing date will be given. If the Judge grants an ex-parte motion, the ex-parte order will be signed and a hearing date given.
- C. All contested domestic relations motions and hearings designated to be heard before the Family Court in Gallatin County shall be set for hearing by telephoning the Gallatin County Clerk's Office. The motion shall be filed with the Gallatin Circuit Clerk with a notice of hearing containing the date and time at which it shall be heard. The party setting the motion shall give the opposing party at least seven days notice of the hearing date, unless a shorter period is ordered by the Court.
- D. All Boone County juvenile matters (status offenses and dependency, neglect and abuse cases) and civil domestic violence matters shall be filed with the Clerk of Boone County and contain a notice of hearing specifying on what date they will be heard. Said date will be given by the Boone County Clerk's Office.
- E. All Gallatin County juvenile matters (status offenses and dependency, neglect and abuse cases) and civil domestic violence matters shall be filed with the Clerk of Gallatin County and contain a notice of hearing specifying on what date they will be heard. Said date will be given by the Gallatin County Clerk's Office.
- F. All motions for paternity cases in Boone County Family Court shall be set for hearing by telephoning the office of the Family Court Judge. The motion shall be filed with the Clerk of Boone County and contain a notice of hearing specifying on what date they will be heard. The party setting the motion shall give the opposing party at least seven days notice

of the hearing date, unless a shorter time period is ordered by the Court.

- G. All motions for paternity cases in Gallatin County Family Court shall be set for hearing by telephoning the Gallatin County Clerk's Office. The motion shall be filed with the Clerk of Gallatin County and contain a notice of hearing specifying on what date they will be heard. The party setting the motion shall give the opposing party at least seven days notice of the hearing date, unless a shorter time period is ordered by the Court.

RULE 3: ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 Entry of Appearance in Adoption or Termination of Parental Rights.

Any attorney appearing on behalf of a party in an adoption or termination of parental rights action shall file a written entry of appearance.

RULE 4: DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 54th Judicial Circuit and District is incorporated by reference herein as if set out fully and attached as Appendix A.

RULE 5: PATERNITY

There are currently no local rules pertaining to Paternity cases. See FCRPP 14 and 15 for uniform statewide rules.

RULE 6: DEPENDENCY, NEGLECT AND ABUSE

601 Introduction/Scope and Applicability.

These rules, and the provisions of FCRPP 16 through 31, shall govern DNA actions as defined by the Kentucky Unified Juvenile Code and known collectively as "DNA actions".

602 Procedures for Emergency Custody Orders.

- A. During normal working hours (8:30 a.m. to 4:30 p.m.), Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO) shall come to the Circuit Clerk's office to fill out the Petition for Emergency Custody. The Petition is then taken to the Family Court Judge or District Judge for review.
- B. After working hours, Petitions for Emergency Custody shall be issued by the Family Court Judge or the District Court Judge on call.

603 Procedures for Dependency, Neglect or Abuse Petitions (without ECO).

- A. Persons seeking to file a petition for DNA shall come to the Circuit Clerk's office to file a Petition.
- B. Pursuant to FCRPP 20, the petition for DNA shall be on the form provided by the Administrative Office of the Courts (AOC) for that purpose. The petition shall be filed with the Family Court Clerk's office.

RULE 7: DOMESTIC RELATIONS PRACTICE

701 It shall be the policy of this court to encourage the parties to cause the least disruption of the children's lives.

- A. Temporary Child Custody.
 - 1. The parties are encouraged to agree to a custody arrangement which will cause the least amount of disruption to the children pending final hearing and maximize time with both parents.
 - 2. Motions for temporary child custody may be set and heard pursuant to these rules.
- B. Disputed Child Custody and/or Parenting Arrangements.
 - 1. The Court encourages the parties to reach an agreement regarding custody and parenting arrangements which is in the best interest of the child(ren).
 - 2. At such time that it is determined that custody and/or the parenting arrangement is in dispute, and the parties are unable to resolve the conflict, a party or the Court, sua sponte, may move for appropriate action to facilitate a proper finding for custody and parenting arrangements.
 - 3. Pursuant to FCRPP 6(1), such appropriate action may consist of one or more of the following:
 - a. A custody evaluation;
 - b. Psychological evaluation(s) of a party or parties, and/or children;
 - c. Family counseling;
 - d. Mediation where a neutral mediator assists the parties in reaching their own resolution of conflict;

- e. Appointment of Guardian ad Litem to represent the best interest of the child(ren);
- f. Appointment of independent counsel to represent the child(ren);
- g. The appointment of such other professional(s) for opinions or advice which the Court deems appropriate; and/or
- h. Such other action deemed appropriate by the Court. (In requesting one of the alternatives presented above, counsel for a party should present those facts of the case which support the alternative requested.)

RULE 8: STATUS OFFENSES

There are currently no local rules pertaining to Status Offense cases. See FCRPP 37 through 44 for uniform statewide rules.

RULE 9: MISCELLANEOUS

901 PROTECTION OF PERSONAL IDENTIFIERS

All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, and 407 by providing the personal identifying information required in those chapters. However, where personal identifiers are required by statute or contained in other documents or exhibits filed with the Court, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court. As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

902. PAYMENTS FOR COURT APPOINTED ATTORNEYS

902.1 Guardians ad Litem in Dependency Neglect and Abuse cases.

- A. Any Guardian ad Litem (GAL) appointed in a Dependency Neglect and Abuse case seeking payment shall complete form FINGAL-1 provided by the Finance and Administration Cabinet and submit it for the Judge's approval.

- B. Upon approval by the Judge, the Clerk will mail a copy of the FINGAL-1 form to the Finance Cabinet, Room 195, 702 Capitol Avenue, Capitol Annex, Frankfort, Kentucky 40601.

902.2 Warning Order Attorney in Dependency Neglect and Abuse cases.

Any Warning Order Attorney (WOA) appointed in a Dependency Neglect and Abuse case seeking payment shall prepare a motion for attorney's fees with attached order which includes a reasonable fee for the services rendered and submit it for the Judge's approval. Motions for compensation shall be accompanied by an affidavit indicating:

- a. The statutory basis for appointment;
- b. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
- c. That the action or proceedings have been concluded.

902.3 Guardian ad Litem in Dissolution and Custody cases.

- A. When a Guardian ad Litem for a child is appointed in a dissolution of marriage or custody case, an Order Appointing a Guardian ad Litem will be prepared by the Judge's office that specifies the percentage of financial responsibility of each party. The fee awarded at the conclusion of the case will be determined based on the the following:
- a. The character of the litigation;
 - b. The rights in controversy;
 - c. The nature, duration and extent of the services;
 - d. The responsibility, industry, diligence and accomplishment of the guardian;
 - e. The general methods of evaluating attorney fees; and
 - f. The allowance for services, if any, in the Court of Appeals.
- B. The GAL will collect said fees from the parties according to the Order Appointing Guardian ad Litem and after the conclusion of the case..

902.4 Warning Order Attorney in Dissolution and Custody cases.

- A. The Petitioner in a dissolution or custody case shall pay the Warning Order Attorney a fee set by the Court at the conclusion of the case. The fee shall be set by Order upon motion by the Warning Order Attorney which includes the following:
- i. the time and labor required,
 - ii. the novelty and difficulty of the questions involved and the skill required to properly conduct the cause;
 - iii. whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction;
 - iv. the customary charges of the Bar for similar services;
 - v. the amount involved in the controversy and the benefits resulting to the client from the services;

- vi. the contingency or the certainty of the of the compensation; and
- vii. the character of the employment, whether casual or for an established and constant client.

- B. Upon entry of the Order Awarding the Warning Order Attorney fees, the Warning Order Attorney will collect said fee after entry of the decree as directed by the Court.

902.5 Guardian ad Litem and Warning Order Attorney Fees in cases where the Cabinet for Health and Family Services is the Petitioner.

- A. When a Guardian ad Litem represents an inmate in paternity or child support actions and is appointed pursuant to CR 17.04:
 - 1. The GAL shall prepare a motion requesting a specific monetary amount followed by an affidavit itemizing the requested fee. An order shall accompany the motion and said order shall leave a blank for the Judge to fill in the awarded fee. The fee will be based upon the standards located in B/GFCR 902.3.A.
 - 2. When a Warning Order Attorney is appointed pursuant to CR 4.07 in paternity or child support actions, at the disposition of the case and in accordance with B/GFCR 902.4.A, the WOA shall prepare a motion requesting a specific monetary amount followed by an affidavit itemizing the requested fee. An order shall accompany the motion and said order shall leave a blank for the Judge to fill in the awarded fee.

902.6 Guardian ad Litem and Warning Order Attorney Fees in Termination of Parental Rights cases.

- A. In Voluntary Termination of Parental Rights cases where the Cabinet for Health and Family Services is made custodian of the child, the GAL shall submit form FINGAL-1 as described in Rule 601.
- B. In Involuntary Termination of Parental Rights cases where the Cabinet for Health and Family Services is the proposed custodian of the child, the GAL shall submit form FINGAL-1 as described in Rule 601.
- C. In all other adoption or termination of parental rights cases where a Guardian ad Litem is requested by the Petitioner or otherwise required by statute, the Petitioner shall be responsible for paying for each GAL or WOA appointment in accordance with B/GFCR 603.A.
- D. Upon receipt of the GAL or WOA report, entry of an Order Awarding fees and payment of the fees by the party(ies) the Clerk will issue payment of the awarded fee.

903 GUARDIANS AD LITEM AND WARNING ORDER ATTORNEYS

903.1 Qualifications of Guardians ad Litem for children.

- A. In order to be appointed as Guardian ad Litem for children, any licensed attorney in good standing with the Kentucky Bar Association may apply by submitting their resume with a cover letter along with a copy of their certification of completion of Guardian ad Litem training provided by the Administrative Office of the Courts. The Judge will then determine if the attorney will be appointed to be on the list of Guardians ad Litem for children.

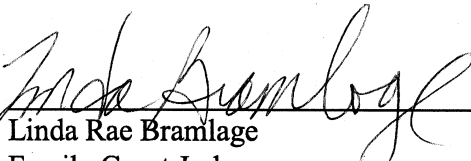
903.2 Qualifications of Guardian ad Litem for adults.

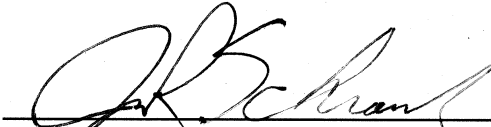
- A. In order to be appointed as Guardian ad Litem for an adult prisoner or a person of unsound mind, any licensed attorney in good standing with the Kentucky Bar Association may apply by submitting their resume with a cover letter along with a copy of their certification of completion of Guardian ad Litem training provided by the Administrative Office of the Courts. The Judge will then determine if the attorney will be appointed to be on the list of Guardian ad Litem.

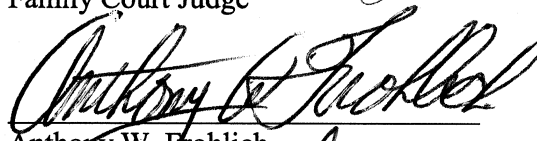
903.3 Qualifications for Warning Order Attorneys.

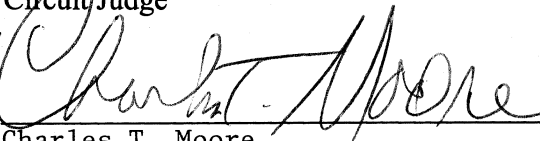
- A. In order to be appointed as a Warning Order Attorney, any licensed attorney in good standing with the Kentucky Bar Association may contact the Boone and Gallatin Clerk's Office to request to be added to the list.

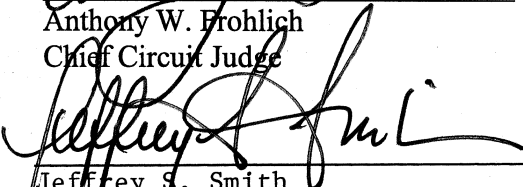
This the 14th day of March, 2012


Linda Rae Bramlage
Family Court Judge


James R. Schrand
Circuit Judge


Anthony W. Frohlich
Chief Circuit Judge


Charles T. Moore
Chief District Judge


Jeffrey S. Smith
District Judge

APPENDIX A

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 54th JUDICIAL CIRCUIT AND DISTRICT BOONE & GALLATIN COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances: When there is a dissolution, legal separation or custody matter pending in another circuit.

[Consistent with FCRPP 12, when the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.]

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours: Circuit or District Clerks and local Law Enforcement Officers.

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends: Local Law Enforcement Officers, County Attorney's Office and Commonwealth Attorney's Office.
- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following: Family Court Judge. If the Family Court Judge is unavailable then it shall be taken to the District Court Judge or Circuit Court Judge.
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to: Family Court Judge. If unavailable then it shall be taken to the District Court Judge who is on call. If unavailable, it shall then be taken to the Circuit Court Judge.
- E. Petitions will be reviewed within an hour of presentation to a judge unless it is impossible due to the unavailability of a judge.
- F. The schedule for domestic violence hearings is as follows: In Boone County the hearings shall be scheduled on Mondays, Wednesdays and Fridays at 8:30 a.m. In Gallatin County the hearings shall be scheduled on the first and third Thursdays of the month at 8:30 a.m. or in certain circumstances when the Family court Judge is not available to hear cases in Gallatin County, the hearings will be scheduled on a date and at a time the District Court Judge is available.

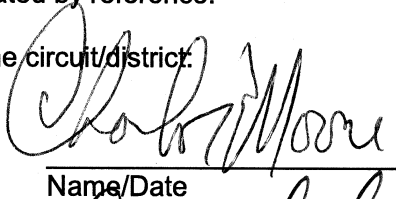
III. Contempt Proceedings

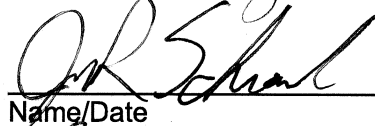
- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should contact:
Family Court Clerks at Boone or Gallatin counties, local Law Enforcement or the County Attorney's Office.
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

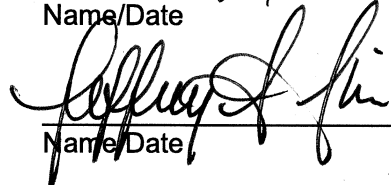
All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

 3/14/12
Name/Date

 3/15/12
Name/Date

 3/14/12
Name/Date

 3/15/12
Name/Date

 3/19/12
Name/Date

Name/Date